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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/828,861	04/21/2004	Kevin R. Lessard	TKG4355	5519
30245	7590	07/27/2005	EXAMINER	
ANTHONY EDW. J CAMPBELL			SMITH, TIMOTHY SCOTT	
PO BOX 160370			ART UNIT	PAPER NUMBER
AUSTIN, TX 78716			3632	

DATE MAILED: 07/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/828,861

Applicant(s)

LESSARD, KEVIN R.

Examiner

Timothy S. Smith

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4-21-04.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 19 and 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☒ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4-21-04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4-21-04</u> . | 6) <input type="checkbox"/> Other: _____ |



DETAILED ACTION

This Office Action represents a non-final first Office Action for the application titled "MAILBOX SUPPORT STRUCTURE DEVICE, KIT AND METHOD," filed April 21, 2004.

Information Disclosure Statement

The information disclosure statement filed 04/21/04 has been considered.

Election/Restrictions

- I. Claims 1-18, drawn to a mailbox support structure device and a kit for a mailbox support structure device, classified in class 248, subclass 156.
- II. Claims 19-20, drawn to a method of using a kit for a mailbox support structure device, classified in class 232, subclass 39.

Inventions 1 and 2 are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the kit for a mailbox support structure device as claimed can be used in a materially different process. For example, the method of using the kit could comprise the steps of: obtaining a kit; digging a trench; affixing the telescoping horizontal post member to the

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telescoping vertical post member; placing one end of the telescoping vertical post member into the trench; and pouring concrete into the hole when the one end of the telescoping vertical post member is placed into the trench.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Anthony Campbell on June 30, 2005 a provisional election was made without traverse to prosecute the invention of a "MAILBOX SUPPORT STRUCTURE DEVICE, KIT AND METHOD," claims 1-18. Affirmation of this election must be made by applicant in replying to this Office action. Claims 19-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Objections

1. Claim 1 is objected to because of the following informalities: "...orifices traversing entirely through said inner..." should be changed to – orifices traversing entirely through said inner piece—. Appropriate correction is required.
2. Claim 7 is objected to because of the following informalities: "...wherein said selected from..." should be changed to –wherein said plastic is selected from—. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 4, 6-15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nash (U.S. Patent No. 3,497,078) in view of Kagels (U.S. Patent No. 3,229,940), and in further view of Skarp (U.S. Patent No. 5,873,552).

Nash discloses a mailbox support structure device 10 comprising: a telescoping horizontal post member 19 made of plastic, metal, or wood (column 4, lines 9-13) attached to a vertical post member 16 made of plastic, metal, or wood (column 4, lines 14-15), said telescoping horizontal post member 19 having an inner piece 26 slidably engaged with an outer piece 24, said telescoping horizontal post member 19 having a plurality of holes 27 traversing entirely through said inner piece 26 and having at least one hole 28 traversing entirely through said outer piece 24 of said telescoping horizontal post member 19; a locking pin 29 slidably engaged with said hole 28 of said outer piece 24 of said telescoping horizontal post member 19 and slidably engaged with any one hole of said plurality of holes 27 in said inner piece 26 of said telescoping horizontal post member 19; and a letterbox 11 attached to said telescoping horizontal post member 19.

In regards to claim 1, although Nash does not disclose a telescoping vertical post member attached to said telescoping horizontal post member 19, said telescoping

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vertical post member having an inner piece slidably engaged with an outer piece, said telescoping vertical post member having a plurality of orifices traversing entirely through said inner and having at least one orifice traversing entirely through said outer piece of said telescoping vertical post member; and a pair of locking pins, one of said locking pins slidably engaged with said orifice of said outer piece of said telescoping vertical post member and slidably engaged with anyone orifice of said plurality of orifices of said inner piece of said telescoping vertical post member, wherein each locking pin having an aperture traversing through each locking pin, attention is directed to the Kagels and Skarp reference. The Kagels reference teaches a telescoping vertical post member having an inner part 11 slidably engaged with an outer part 10, said telescoping vertical post member having a plurality of holes 12 traversing entirely through said inner part 11 and having at least one hole 14 traversing entirely through said outer part 10 of said telescoping vertical post member; a horizontal post member 16 attached to said telescoping vertical post member; and a locking pin 13 slidably engaged with said hole 14 of said outer part 10 of said telescoping horizontal post member and slidably engaged with any one hole 12 of said plurality of holes 12 in said inner part 11 of said telescoping vertical post member. The Skarp reference teaches a locking pin 60 that slidably engages with a hole 54 of an outer part 36 of a telescoping post member and slidably engages with any one hole 58 of a plurality of holes in an inner part 38 of a telescoping post member, wherein said locking pin 60 has an aperture traversing (see figure 1) through it. In view of Kagel and in further view of Skarp, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide

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the mailbox stand of Nash with a telescoping vertical post member attached to the telescoping horizontal post member, said vertical post member having an inner part 11 slidably engaged with an outer part 10, said telescoping vertical post member having a plurality of holes 12 traversing entirely through said inner part 11 and having at least one hole 14 traversing entirely through said outer part 10 of said telescoping vertical post member, and locking pins 60 with an aperture traversing through each locking pin 60, wherein doing so would provide vertical adjustment of said vertical post member and prevent the locking pin from disengaging from the post members.

In regards to claims 2 and 15, although Nash in view of Kagel does not disclose a pair of locks, each lock attached to said aperture of each locking pin, attention is directed to the Skarp reference. The Skarp reference teaches a lock 62, locked to an aperture of a locking pin 60. In view of Skarp, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a locking pin of Nash with a lock attached to an aperture of said locking pin, wherein doing so would prevent the locking pin from disengaging from the post member.

Regarding claim 7, although the prior art failed to teach a plastic selected from the group consisting of rubber, neoprene, nylon, polyvinyl chloride, polyester, polyethylene, polypropylene, polyurethanes, polyacryls, polymethacryls, cellulosic polymers, styrene-acryl copolymers, polystyrene-polyacryl mixtures, polysiloxanes, urethane-acryl copolymers, siloxane-urethane copolymers, polyurethane- polymethacryl mixtures, silicone-acryl copolymers, vinyl acetate polymers, and mixtures thereof, it would have been obvious to one of ordinary skill in the art at the time the invention was

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made to make said telescoping horizontal and vertical post members from a plastic selected from the above mentioned group as they all are well known and obvious types of plastic in the art and would merely amount to substitution of one material for another within the same art that would work equally well in the Nash support device.

Regarding claim 9, although the prior art failed to teach a metal selected from the group consisting of steel, aluminum, brass, bronze, nickel, iron, manganese, titanium, tungsten, and copper, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make said telescoping horizontal and vertical post members from a metal selected from the above mentioned group as they all are well known and obvious types of plastic in the art and would merely amount to substitution of one material for another within the same art that would work equally well in the Nash support device.

Regarding claim 11, although the prior art failed to teach wood selected from the group consisting of maple, oak, ironwood, elm, ash, cedar, fir, pine, poplar, ebony, ash, and hemlock, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make said telescoping horizontal and vertical post members from wood selected from the above mentioned group as they all are well known and obvious types of wood in the art and would merely amount to substitution of one material for another within the same art that would work equally well in the Nash support device.

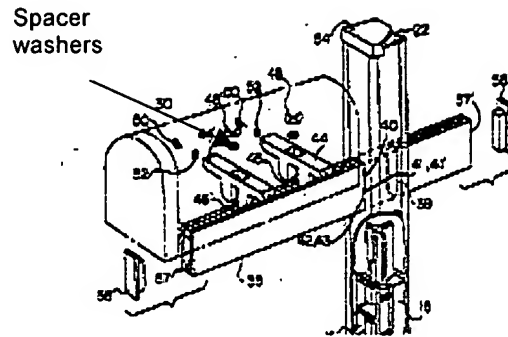
Regarding claims 12 and 13, although the prior art failed to teach a telescoping vertical post member that can extend in length from about four feet to about six feet and

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a telescoping horizontal post member that can extend in length from about two feet to about four feet, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have designed telescoping vertical and horizontal post members that can extend in length from about four feet to about six feet and from about two feet to about four feet, respectively, wherein doing so would amount to mere design choice.

5. Claims 3 and 16, and 5 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nash (U.S. Patent No. 3,497,078) in view of Kagels (U.S. Patent No. 3,229,940), in view of Skarp (U.S. Patent No. 5,873,552), and in further view of Barrett (U.S. Patent No. 5,022,618).

In regards to claims 3 and 16, Nash in view of Kagel, and in further view of Skarp teach the previously described invention of claim 1, but they fail to teach a pair of spacer washers attached to a telescoping horizontal post member. Although Nash in view of Kagel, and in further view of Skarp fail to teach a pair of spacer washers attached to a telescoping horizontal post member, attention is directed to the Barrett reference. Barrett discloses a pair of spacer washers (see figure below) attached to a horizontal post member 38. In view of Kagels, Skarp, and Barrett, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the mailbox stand of Nash with a pair of spacer washers attached to a telescoping horizontal post member wherein doing so would strongly secure the letterbox to the telescoping horizontal post member.



In regards to claims 5 and 18, Nash in view of Kagels, and in further view of Skarp teach the previously described invention of claim 4, but they fail to teach a pair of screws attached to a telescoping horizontal post member and attached to a letterbox. Although Nash in view of Kagel, and in further view of Skarp fail to teach a pair of screws attached to a telescoping horizontal post member and attached to a letterbox, attention is directed to the Barrett reference. Barrett teaches a pair of screws 50 attached to a horizontal post member 38 and attached to a letterbox 30. In view of Kagels, Skarp, and in further view of Barrett, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the telescoping horizontal member of Nash with a pair of screws 50 attached to said telescoping horizontal post member and attached to the letterbox wherein doing so would strongly secure the letterbox to the telescoping horizontal post member and allow removal of the letterbox for replacing.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Pat. No. 1,685,445 to Bash discloses a scaffold jack comprising a telescoping vertical post member and locking pin.

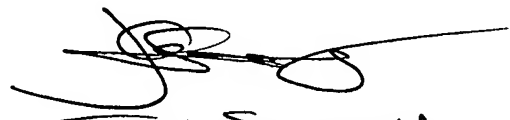
U.S. Pat. No. 5,259,821 to Bryant discloses a linear spacing device having first and second elongated components, which may be telescoping hollow tubes, each having linear surfaces engaging each other in sliding relationship. Each component has spaced holes disposed at regular linear intervals along its length.

U.S. Pat. No. 5,979,854 to Lundgren et al. discloses a support device having a telescoping vertical tube and locking pin.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy Smith whose telephone number is 571-272-8296. The examiner can normally be reached on M-F: 8:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax number for the organization where this application or proceeding is assigned is 703-872-9306.

TSS
Timothy S. Smith
Patent Examiner
Art Unit 3632
July 7, 2005


Jon Seumny
Primary Examiner
AU 3632